THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No: 637 of 2006

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DATED: 10.01.2006

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Between:

Katta Anitha

... PETITIONER

AND

The Joint Collector,

Nellore District at Nellore,

& others.

... RESPONDENTS

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 637 of 2006

ORDER:-

This writ petition filed to declare the order, dated 06.01.2006 of the 1st respondent in rejecting the stay petition with reference to the orders of the 2nd respondent vide his proceedings, dated 24.12.2005, as illegal, arbitrary, and contrary to A.P. State Public Distribution System Control Order 2001 and consequently to set aside the same.

Learned counsel for the petitioner submits that the petitioner is a fair price shop dealer in respect of shop situated at Allurpet village, Allur Mandal, Nellore District. The dealership of the petitioner was cancelled by order, dated 24.12.2005, of the Revenue Divisional Officer, Kavali, on the ground that the petitioner distributed the rice meant for Government under various schemes to the workers without production of the coupons. Aggrieved by the said order, the petitioner filed an appeal before the Joint Collector, who by order dated 06.01.2006 rejected the stay application on the ground that the petitioner issued rice without obtaining coupons, which is a serious irregularity.

The learned counsel further submits that the petitioner distributed the rice under various schemes of SGRY as per the instructions of the authorities and there are no allegations of non-distribution or indulging in any malpractice and diverting the rice into black market.

However, all these contentions are required to be considered by the appellate authority and when the appeal is pending, it is not just and proper to express any opinion on the merits of the case.

Having regard to the facts and circumstances of the case, as no stay was granted, the provision of appeal itself will become illegal. Inasmuch as there are no serious charges of black marketing of rice and in the absence of any specific complaint by any of the workers, it may not be just and proper to deprive the right of the petitioner to distribute the essential commodities pending disposal of the appeal.

Accordingly, the order of the Joint Collector refusing to grant stay is set aside and there shall be stay of operation of the order, dated 24.12.2005, of the 2nd

respondent-Revenue Divisional Officer, pending disposal of the appeal before the Joint Collector and the appellate authority is directed to dispose of the appeal after hearing the petitioner in accordance with law. Till then the petitioner may be permitted to distribute the essential commodities.

Accordingly, the writ petition is allowed. No order as to costs.

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10.06.2006

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